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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,719	12/26/2001	Christian Bock	6538	8639

7590 10/04/2004

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EXAMINER

FLEMING, FRITZ M

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,719

Applicant(s)

BOCK, CHRISTIAN

Examiner

Fritz M Fleming

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

Fritz M. Fleming
PRIMARY EXAMINER
GROUP 2100

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/3/2002.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. There is a major problem with this application. The Brief Description of the Drawing (should be plural?) clearly indicates the presence of Figures 13-16. The specification clearly discusses Figures 13-16. However, applicant failed to submit Figures 13-16. A careful review of the IFW contents reveals that only 5 sheets of drawings were submitted, these sheets only going to Figure 12. The published application (2002/0138780A1) only has 5 sheets going to Figure 12. Thus applicant filed an incomplete application. A filing date was accorded, with a Notice of Missing Parts sent out, only noting a missing filing fee and a missing oath/declaration and did not address the missing drawings. Therefore the only remedy to this situation is found in MPEP 601.01(g), reproduced below, and requires action of some sort by applicant.

APPLICATION LOCATED IN A TECHNOLOGY CENTER

If it is discovered that an application, located in a Technology Center (TC), was filed without all of the drawing figure(s) referred to in the specification, and a Notice of Omitted Items has not been mailed by the OIPE, the examiner should review the application to determine whether the application is entitled to a filing date. An application is entitled to a filing date if the application contains something that can be construed as a written description, at least one drawing figure (if necessary under 35 U.S.C. 113, first sentence), and at least one claim.

Application Entitled to a Filing Date

If the application is entitled to a filing date, the examiner should notify applicant of the omission in the next Office action and require applicant to do one of the following:

- (A) accept the application, as filed, without all of the drawing figure(s) referred to in*

the specification;

(B) file any omitted drawing figure(s) with an oath or declaration in compliance with 37 CFR 1.63 and 37 CFR 1.64 referring to the omitted drawing figure(s) and a petition under 37 CFR 1.182 with the petition fee set forth in 37 CFR 1.17(h), requesting the date of submission of the omitted drawing figure(s) as the application filing date; or

(C) file a petition under 37 CFR 1.53(e) with the petition fee set forth in 37 CFR 1.17(h) alleging that the drawing figure(s) indicated as omitted was in fact deposited with the USPTO with the application papers, including any and all evidence supporting the allegation. See MPEP § 503. The petition fee will be refunded if it is determined that the drawing figure(s) was in fact received by the USPTO with the application papers deposited on filing.

*If applicant is willing to accept the application, as filed, without all of the drawing figure(s) referred to in the application (item A above), applicant is required to submit (1) an amendment to the specification canceling all references to the omitted drawing figure(s) including any reference numerals shown only in the omitted drawing figure(s), (2) ~~**~~an amendment with replacement sheets of drawings in compliance with 37 CFR 1.121(d) < renumbering the drawing figure(s) submitted on filing consecutively, ** and (3) a further amendment to the specification correcting references to drawing figure(s) to correspond with the relabeled drawing figure(s), both in the brief and detailed descriptions of the drawings. The amendment ~~**~~should be submitted in response to the Office action.*

Any petition filed in accordance with item B or C above should be filed with the TC. The TC will match the petition with the application file and forward the application file with the petition to the Office of Petitions, along with a brief explanation as to the drawing figure(s) that has been omitted on filing, for consideration of the petition in due course.

Application NOT Entitled to a Filing Date

If upon review of the application, the examiner determines that the application is NOT

entitled to a filing date because the application does not contain any drawing figure, and at least one drawing figure is necessary under 35 U.S.C 113, first sentence, the examiner should forward the application to OIPE for mailing of a "Notice of Incomplete Application."

In the instant analysis of the situation, it is clear that applicant has met the threshold for obtaining a filing date; therefore, applicant must select from the above possible courses of action in order to further the prosecution of this application. However, the failure to submit all Figures clearly has a negative impact on the prosecution, as set forth below.

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: This is a technicality, as Figures 13-16 were not filed by applicant. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: There are numerous errors, as well as poor concordance with the supplied Figures, requiring a

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careful review on the part of the applicant. Reference is made to “[...]” numerals of the published application 2002/0138780A1 for locations of errors. Drawing errors will also be discussed, as it is unclear where the overall underlying error(s) exist.

- [0019] refers to the new number z1 remaining within the second or third limits, which does not appear to be the case, as per Figure 1, it is pa that is treated by 8, and not z1.
- [0019] refers to “j” but no “j” is shown, but some non-described d1 is shown feeding the comparator 9.
- [0019] refers to z1 getting integrated, when in fact it is the delayed signal z2 that is fed to the integrator 3.
- [0021] refers to “rang A0”.
- [0022] apparently is still describing Figure 3, which does not show A0-A2 (shows I1,2) and no G2,2’.
- Figures 2 and 3 use the German “psoll” which should be changed to an English art term.
- Figure 2 appears to show G1’ in the wrong spot, fails to show an A0, and the description should explain T/2 in the context of this figure.
- Figure 5 should most likely have “ps=-29” for cl5.
- Figure 6 has I1,2 and not the A terminology of the description.
- [0026] should have the mirrored ps10 correspond to most likely ps10’ of the Figure.
- [0026] step ps*6 is not understood.

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- [0028] seems to incorrectly call the lower limit G2, when such is most likely G2'. Likewise, A1, M' and M* are not shown in Figure 6.
- [0046]-[0048] descriptions do not correlate well to the Figures 10-12. For example, Figure 10 does not have S and S'. Figures 11 and 12 do not have the I' and J', as the H' is also missing.
- [0049] at the end thereof calls z1 both the original random number and the another number, which cannot be possible.
- Figures 13-16 and the sufficiency of the description spanning [0049]-[0076] cannot be ascertained due to the lack of drawing figures.

Appropriate correction is required, as a thorough and complete review is suggested.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. This is in part due to the lack of Figures 13-16, as the absence of these Figures makes the understanding of the subject matter very difficult. Additionally,

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applicant has set forth numerous conditions at [0030]-[0036] (also found in claim 10), without making it clear what is responsible for each of these in the embodiment of Figure 1. For example, what replaces at least one random number—is it the scantily described modification unit 17? How is the mirroring carried out per the elements of Figure 1? How is a random number sequence repeated as it would have to be stored someplace in order to do so? The same would apply to suppression, as this would seem to involve at least some sort of buffering. The missing Figures complicate the matter, as compliance with 35 U.S.C. 112 cannot be ascertained without them, as claim 1 seems to, at least in part, rely upon the missing material. For example, claim 1 uses the terms “interferes with the random numbers or intervenes in the integration process to prevent predetermined limit values of the integral from being exceeded.” Which would seem to find enablement, at least in part, in the missing Figures 13-16 where one finds mention of sign reversals and return strategies as possible ways in which affect the process. However, a larger issue then arises, that being the lack of the ability to discern per the disclosure as originally filed, what the meaning of an “interferes in the random numbers” and the “or intervenes in the integration process” is to be construed as. As claimed, there are two separate and distinct actions, the “interferes” and the “intervenes”, but yet the disclosure does not use these terms, so the exact meaning of such is unclear and not enabled or adequately described by what was originally filed. The term “intervenes” only appears in the abstract and claim 1, and the “interferes” is not explained in conjunction with the integrator or checking facility itself. Therefore it is entirely unclear how the integrator or checking facility do these functions. The preamble

sets forth an attendant minimal radiated interference, but the disclosure does not make a clear and convincing nexus as to how the radiated interference is made minimal, or what guidelines are to be used in determining what level is to be considered minimal.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

This is in part due, to the above mentioned lack of specific meaning to be attached to the claim 1 "interferes or intervenes" per the disclosure as originally filed. The "the integration process" lacks a clear and proper antecedent basis. The claims are replete with terms indicative of optional (i.e. claim 5 preferably, claim 8 particularly, claim 10 particularly) requirements, making it unclear if the broader or narrower limitations are to be used. Finally, the preamble sets forth a minimal radiated interference without having a yardstick to measure where radiated interference is considered minimal. In other words, the metes and bounds of the claim would not be clearly understood by anyone reading the claims in light of the disclosure. As such, considerable speculative assumptions would have to be made by the examiner when trying to determine the claim meanings, rendering a rejection upon art improper at this time. See MPEP 2143.03 In re Steele.

Conclusion

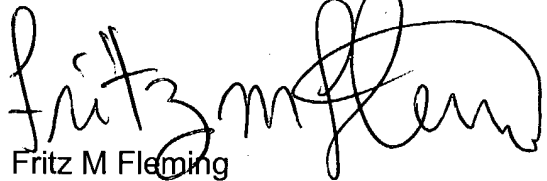
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sattler teaches a random number generator 13. Menkhoff et al. teach a clock source 12, random number generator 20, a phase modulator 16 and variable delay device 16a. Kootstra et al. teach a random number generator 120. Hekimian et al. teach the use of jitter and an integrator 27. JP 2002-278641 appears to be based on a common priority document and shows 16 Figures. Butaud et al. teach the use of a jittered clock for reduced electromagnetic interference. DE 100 65 072 C1 appears to be based upon a common priority document and only has 12 Figures. Menkhoff ('683) shows a phase modulator 2, variable delay 4, and a random signal source 3.1.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fritz M Fleming whose telephone number is 703-308-1483. The examiner can normally be reached on M-F, 0600-1500.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 703-308-3301. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fritz M Fleming
Primary Examiner
Art Unit 2182

fmf